IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.673 OF 1993

Ravi Gayanam Nadar ...Petitioner
vs.
State of Maharashtra & ors. ...Respondents

Mr.Amit Shastri h/f Ms Geeta Shastri for the Applicant
Ms Rajeshree Gadhvi,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 29,2005

P.C.:

1. Heard Counsel appearing for the Petitioner and the learned A.P.P. for State. The prayer in this Petition is for quashing the charge sheet in L.A.C.No.749 of 1993 under Section 7 of the Bombay Cinemas (Regulation) Act, 1953 (hereinafter referred to as the said Act of 1953) read with Rule 24-C of the Maharashtra Cinemas (Regulation) Rules, 1966. The challenge in the Petition is on the ground that breach of provisions of Rule 24-c is made an offence under Section 7 of the said Act of 1953 which is a non-cognizable offence. The submission is that in view of Section 155(2) of the Code of Criminal Procedure, 1973, investigation could not have been proceeded without obtaining permission from the concerned learned Magistrate.

2. The learned Counsel for the Petitioner has relied upon the decision of Division Bench of this Court dated 18th June 1991 in Criminal Writ Petition No.1312 of 1990 (Pankaj J. Nadar

and another Vs. Commissioner of Police and others) and submitted that the present Petition is covered by the law laid down by the Division Bench. I have heard the learned A.P.P. for the State.

3. It will be necessary to refer to the decision of Division Bench in case of Nadar (supra). The Division Bench held that the offence under Section 7 said Act of 1953 is a non-cognizable offence and therefore without obtaining the order of the learned Magistrate, investigation cannot be carried out.

4. In my view this Petition is covered by the decision of the Division Bench in case of Nadar (supra). In this Petition, a specific case is made out that the investigation is made without obtaining the order of the learned Magistrate. There is no reply filed to the Writ Petition. Hence, Petition deserves to be allowed.

5. Accordingly, rule is made absolute in terms of prayer clause (a).

JUDGE